

## **TITLE 326 AIR POLLUTION CONTROL BOARD**

### **PROPOSED RULE AS PRELIMINARILY ADOPTED**

LSA Document #06-285

#### **DIGEST**

Amends 326 IAC 13-1.1-2, 326 IAC 13-1.1-3, and 326 IAC 13-1.1-10. Effective 30 days after filing with the Publisher.

#### **HISTORY**

IC 13-14-9-7 Notice and Notice of First Hearing: August 23, 2006, Indiana Register, (DIN: 20060823-IR-326060285FDA).

Date of First Hearing: November 1, 2006.

Proposed Rule: November 22, 2006, Indiana Register (DIN: 20061122-IR-326060285PRA).

Notice of Second Hearing: November 22, 2006, Indiana Register (DIN: 20061122-IR-326060285PHA).

Date of Second Hearing: February 7, 2007.

**326 IAC 13-1.1-2**

**326 IAC 13-1.1-3**

**326 IAC 13-1.1-10**

SECTION 1. 326 IAC 13-1.1-2 IS AMENDED TO READ AS FOLLOWS:

#### **326 IAC 13-1.1-2 Applicability**

**Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11**

**Affected: IC 13-15; IC 13-17**

Sec. 2. (a) The following motor vehicles in ~~Clark, Floyd, Lake~~ and Porter counties are subject to the requirements of this rule unless such vehicles are exempt or have received a waiver from the requirements as specified in section 10 of this rule:

- (1) Vehicle model years 1976 and newer.
- (2) Light and medium duty motor vehicles.
- (3) Vehicles registered or reregistered for highway use.
- (4) Fleets primarily operated within ~~Clark, Floyd, Lake~~ or Porter County.
- (5) Leased vehicles that have the registration or titling in the name of the equity owner other than the lessee or user.
- (6) Vehicles that are operated on federal installations located within ~~Clark, Floyd, Lake~~

or Porter County, regardless of whether the vehicles are registered with the federal installation or in ~~Clark, Floyd, Lake~~ or Porter County. This requirement applies to all employee-owned or leased vehicles (including vehicles owned, leased, or operated by civilian and military personnel on federal installations) as well as agency-owned or operated vehicles operated on the installation. This requirement shall not apply to visiting agency, employee, or military personnel vehicles as long as ~~such the~~ visits do not exceed sixty (60) calendar days per year.

(b) Motor vehicles subject to this rule in ~~Clark, Floyd, Lake~~ and Porter counties shall be tested under the parameters specified for I/M 240 or I/M 93 found at section 7 of this rule.

(c) Light and medium duty motor vehicles in ~~Clark, Floyd, Lake~~ and Porter counties of model year 1996 or newer are subject to the provisions of the second generation on-board diagnostics systems (OBDII) check found at section ~~17-17.1~~ of this rule starting January 1, 2001.

(d) The following motor vehicles are exempt from the testing requirements of this rule:

- (1) Heavy duty motor vehicles.
- (2) Motorcycles.
- (3) Motor vehicles with engine displacement less than two hundred (200) cubic centimeters.
- (4) Farm tractors, farm trucks, and farm equipment used in connection with agricultural pursuits usual and normal to the user's primary operation.
- (5) Motor vehicles registered as recreational vehicles (RV).
- (6) Motor vehicles using diesel fuel.
- (7) All motor vehicles with a chassis year and engine year prior to 1976 as identified by the vehicle identification number and engine identification number.
- (8) Electric vehicles or vehicles that have been certified by the department as being electric.
- (9) Off highway construction equipment.

(e) Motor vehicles registered in ~~Clark, Floyd, Lake~~ or Porter County but operated in another I/M area shall be:

- (1) tested ~~either~~ where they are primarily operated; or ~~shall be~~
- (2) given an extension by the department so that testing can occur when the vehicle is brought into the county of registration.

The bureau may accept a certificate of compliance from another U.S. EPA approved I/M program.

(f) Model year vehicles 1996 and newer shall be tested beginning four (4) calendar years after the model year of the vehicle in order to demonstrate initial compliance. After the initial demonstration of compliance, model year vehicles 1996 and newer shall be tested in the calendar year that corresponds to the model year of the vehicle as specified at section 5 of this rule.

~~\_\_\_\_\_ (g) Owners or operators who commute to Jefferson County, Kentucky from Indiana and are subject to the Jefferson County I/M regulations may have their vehicles tested in Clark, Floyd, Lake, or Porter County.~~

~~(h)~~ (g) Owners or operators of vehicles registered in a state other than Indiana who are subject to their state's I/M regulations may have their vehicles tested in ~~Clark, Floyd, Lake or Porter County~~ under either of the following conditions:

(1) The owner or operator of the vehicle has resided in ~~Clark, Floyd, Lake or Porter County~~ for a minimum of three (3) months of the previous twelve (12) month period as of the date the vehicle is presented for emissions testing.

(2) The owner or operator of the vehicle has operated the vehicle in ~~Clark, Floyd, Lake or Porter County~~ for a minimum of three (3) months of the previous twelve (12) month period as of the date the vehicle is presented for emissions testing.

*(Air Pollution Control Board; 326 IAC 13-1.1-2; filed Jun 21, 1995, 4:00 p.m.: 18 IR 2731; filed Dec 23, 1998, 4:44 p.m.: 22 IR 1464; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 2. 326 IAC 13-1.1-3 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 13-1.1-3 General requirements**

**Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11**

**Affected: IC 13-15; IC 13-17**

Sec. 3. (a) All owners and operators of motor vehicles subject to the provisions of this rule shall maintain their motor vehicles and any air pollution control equipment on the motor vehicles in good working order such that they meet the emission standards specified in this rule. Any such motor vehicle that fails to pass the emissions test and tampering inspection required under sections 8 through 9 of this rule or obtain a waiver in accordance with section 10 of this rule in order to obtain a certificate of compliance provided under section 5 of this rule shall not be registered by the commissioner of the bureau.

(b) Vehicles of model year 1981 and newer registered in Lake or Porter County shall be subject to the enhanced I/M test procedures and requirements. ~~Vehicles of model year 1981 and newer registered in Clark or Floyd County shall be subject to the test parameters and the test procedures and standards of the enhanced I/M program, except to the extent specified otherwise in this rule.~~ Unless stated otherwise, the requirements of this rule shall apply to both enhanced I/M and basic I/M. *(Air Pollution Control Board; 326 IAC 13-1.1-3; filed Jun 21, 1995, 4:00 p.m.: 18 IR 2731; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 3. 326 IAC 13-1.1-10 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 13-1.1-10 Waivers and compliance through diagnostic inspection**

**Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11**

**Affected: IC 13-15; IC 13-17**

Sec. 10. (a) A waiver of the requirement that a motor vehicle obtain a certificate of compliance may be issued only under the following conditions:

(1) A waiver shall be issued only after a vehicle has failed a retest performed after all emission-related repairs as described in subdivisions (3) through (5) have been completed. Vehicles that are subject to an emissions recall but have not had recall repairs shall not be eligible for a waiver until ~~such~~ the repairs have been made.

(2) Waivers shall not be issued to vehicles for tampering-related repairs. The cost of tampering-related repairs shall not be applicable to the minimum expenditure in subdivision (5). The department may issue exemptions for tampering-related repairs if the motorist can verify that the part in question or one similar to it is no longer available for sale.

(3) Repairs shall be appropriate to the cause of the test failure, and a visual check shall be made at the time of retest to determine if repairs were actually made. Receipts shall be submitted for review at the test site to further verify that qualifying repairs were performed.

(4) Repairs shall be performed at a certified I/M emission repair facility. A certified I/M emission repair facility shall meet the following criteria:

(A) Employ at least one (1) certified I/M emission repair technician as defined in this rule.

(B) For all I/M emission testing, possess the following:

- (i) Reference material.
- (ii) Digital multimeter.
- (iii) Vacuum and fuel pressure testing equipment.
- (iv) Carbon/fuel injection cleaning equipment.
- (v) Ignition scope with distributorless ignition (DIS) capability.
- (vi) 2, 3, 4, or 5 gas analyzer.
- (vii) Scan tool.

(C) For all I/M emission testing beginning January 1, 2000, possess the following:

- (i) All equipment listed in clause (B).
- (ii) Digital storage oscilloscope (DSO).
- (iii) OBDII scan tool.

(D) For I/M 240 emission testing, possess the following:

- (i) All equipment listed in clauses (A) and (B).
- (ii) Purge-flow tester.

The department may suspend, revoke, or deny renewal of a certification of a certified I/M emission repair facility if the facility fails to adhere to program requirements.

(5) In order to qualify for a waiver, repairs shall be performed by a certified I/M emission repair technician who:

- (A) is certified and maintains current certification as an Automotive Service Excellence (ASE) A6 (Electrical/Electronic Systems) technician and an A8 (Engine Performance) technician;
- (B) on and after January 1, 2000, is certified and maintains current certification as an ASE L1 (Advanced Engine Performance) technician;
- (C) has successfully completed the department approved emission and driveability training program;
- (D) is professionally engaged in emission/driveability repair; and
- (E) is employed at a certified I/M emission repair facility.

The department may suspend, revoke, or deny renewal of a certification of a certified I/M emission repair technician if the technician fails to adhere to program requirements.

(6) Repairs appropriate to the reason for the failure may be performed by nontechnicians (such as owners) to apply toward the waiver limit for model year vehicles 1976 through 1980.

(7) In order to qualify for a minimum expenditure waiver, motorists in Lake or Porter County with 1981 model year or newer vehicles shall expend the following:

- (A) At least four hundred fifty dollars (\$450) in repairs on or after January 1, 1999.
- (B) Motorists in ~~Clark, Floyd,~~ Lake or Porter County with 1976 through 1980 model year vehicles shall expend at least seventy-five dollars (\$75) in repairs in order to qualify for a minimum expenditure waiver.
- ~~(C) Motorists in Clark or Floyd County shall expend a minimum of two hundred dollars (\$200) for 1981 and newer vehicles in order to qualify for a minimum expenditure waiver.~~

The costs of owner performed repairs shall not include labor costs. Any available warranty coverage shall be used to obtain needed repairs before expenditures can be counted towards the cost limits. The operator of a vehicle within the statutory age and mileage coverage under Section 207(b) of the Clean Air Act\* shall present a written denial of warranty coverage from the manufacturer or authorized dealer for this provision to be waived for approved tests applicable to the vehicle.

(8) Vehicles subject to an enhanced I/M emission test at the cutpoints established in 40 CFR 51.351\* may be issued a certificate of compliance without meeting the prescribed emission cutpoints, if, after failing a retest, a complete, documented physical and functional diagnosis and inspection performed by the contractor shows no additional emission-related repairs are needed. Any such exemption policy and procedures shall be subject to EPA approval.

(9) After an initial I/M emission test failure, a vehicle may be retested up to four (4) additional times. A vehicle shall not be retested a fifth time until the type of repairs or modifications necessary has been fully evaluated by department and contractor personnel.

(10) Waivers shall be issued only by the test site manager or other employee specifically

designated for this purpose.

(11) A waiver shall be valid for ~~no~~ **not** more than one (1) test cycle.

(b) No vehicle in its lifetime shall receive more than one (1) waiver.

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 13-1.1-10; filed Jun 21, 1995, 4:00 p.m.: 18 IR 2734; filed Dec 23, 1998, 4:44 p.m.: 22 IR 1468; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1570; filed Aug 26, 2004, 11:30 a.m.: 28 IR 78*)